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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,356	01/07/2002	Pascal Agin	Q-67999	5474
7590 11/29/2007				
SUGHRUE MION, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3213				
			EXAMINER GELIN, JEAN ALLAND	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 11/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/036,356	AGIN ET AL.	
	Examiner	Art Unit	
	Jean A. Gelin	2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 51-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 51-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 11/13/07 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 51-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiedemann Jr. et. (US 6,137,840).

Regarding to claims 51, 53, and 55, Tiedemann Jr. teaches a method and apparatus for improving performances of a mobile radio communication system using a power control algorithm (col. 3, lines 13-17) for controlling a transmit power according to a transmission quality target value (col. 3, line 55 to col. 4, line 40), the method

comprising: upon receipt of a power control command, determining if a significant change in the required transmit has just occurred; and if the significant change in the required transmit has just occurred (col. 3, lines 20-26), changing the transmit power according to a change including a corresponding change in the required transmission quality target value in addition to a change according to said power command (i.e., transmitting at higher power or lower power due to propagation path, col. 3, lines 27-38 and col. 4, lines 1-28, and col. 8, lines 36-67).

Regarding to claims 52, 54, and 56, Tiedemann Jr. teaches the significant change in the required transmit power corresponds to the use of transmission in compressed mode (col. 3, lines 35-37 and col. 4, lines 41-47).

Regarding claim 57, Tiedemann Jr. teaches a mobile radiocommunication system comprising at least one mobile station (mobile station 6, col. 5, lines 18-29).

Regarding claim 58, Tiedemann Jr. teaches a mobile radiocommunication system comprising at least one mobile radiocommunication network entity (i.e., a base station 4, col. 5, lines 18-29).

Response to Arguments

4. Applicant's arguments filed 2/18/04 have been fully considered but they are not persuasive.

The Applicant argues that Tiedemann, Jr. fails to teach the claimed invention as recited in claim 51 above.

However, the Examiner disagrees with the preceding argument. Tiedemann, Jr. teaches a change in transmission power by reducing the transmission power to the

minimum of one user. This change allows another user to transmit at a higher power level corresponding to differences in propagation path (i.e., the propagation path depends on fading condition) (see col. 3. lines 23-38). The above teaching corresponds to change of transmission power corresponds to change in the transmission quality target value. Tiedemann, Jr. further teaches fading characteristics can be used to estimate the power control changes that need to be made corresponding to change of power is based on the transmission quality, fading characteristics, (see col. 4, lines 14-34). The Examiner does not see any difference that can make claim 51 allowable over canceled claim 17. The Examiner would like the Applicant's representative to carefully review of the Board of Appeal decision because rewording the claims is not sufficient for the Examiner to withdraw the Board decision.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Appiah can be reached on (571) 272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JEAN GELIN
PRIMARY EXAMINER

JGelin
November 21, 2007

A handwritten signature in black ink, appearing to read "Jean Gelin", written in a cursive style.